



Leadership Conference on Civil Rights

1629 K Street, NW
10th Floor
Washington, D.C. 20006

Phone: 202-466-3311
Fax: 202-466-3435
www.civilrights.org

OPPOSE THE "MARRIAGE PROTECTION ACT OF 2004" (H.R. 3313)

July 21, 2004

Dear Representative:

On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, we urge you to strongly oppose the "Marriage Protection Act of 2004" (H.R. 3313). H.R. 3313 would strip the federal courts of any jurisdiction to hear any case involving the interpretation of the Defense of Marriage Act of 1996 (P.L. 104-199). LCCR believes that H.R. 3313 is dangerous, unnecessary, divisive, and like the Federal Marriage Amendment (H.J. Res. 56/S.J. Res. 40) that was recently rejected by the Senate, is little more than a distraction from the many urgent matters facing our nation.

LCCR strongly opposes any proposal that would eliminate access to the federal judiciary for any group of Americans. For over 50 years, the federal courts have played an indispensable role in the interpretation and enforcement of civil rights laws. When Congress has sought to prevent the courts from exercising this role, such efforts ultimately tend to do little more than enshrine discrimination in the law. Fortunately, in most instances, cooler heads prevail. In the 1970s, for example, some Members of Congress sought to strip the courts of jurisdiction to hear cases involving desegregation efforts such as busing. Regardless of whether these efforts were motivated by some general abstract concern that the courts were becoming too powerful, in reality they would have done little more than preserve racial inequality. More recently, however, at the height of anti-immigrant sentiment in 1996, Congress passed immigration reform laws that stripped the courts of the ability to hear appeals by many legal residents who were challenging harsh new deportation laws – laws that were so extreme that the Supreme Court ultimately had no choice but to step in and scale them back.

The judicial branch has often been the sole protector of the rights of minority groups against the will of the popular majority. Any proposal to interfere with this role through "court-stripping" proposals would set a dangerous precedent that would harm all Americans. Allowing the courthouse doors to be closed to one minority group, as H.R. 3313 would do to gays and lesbians, is not only unjustified in itself, but will also set a dangerous precedent that will ultimately weaken the rights of any other groups that may be forced to turn to the courts for justice.

Supporters of H.R. 3313 cite "judicial activism," in cases involving the rights of gays and lesbians, as a justification for this latest attempt at court-stripping. Yet terms like "judicial activism" are alarming to the civil rights community because such terms have often been used as a proxy by opponents of civil rights to argue in favor of continued discrimination, and to attack judges who made courageous decisions on civil rights

Realize the Dream. **Restore Civil Rights 2004.**

FOUNDERS

Arnold Aronson*
A. Philip Randolph*
Roy Wilkins*

OFFICERS

CHAIRPERSON

Dorothy I. Height
National Council of Negro Women

VICE CHAIRPERSONS

Judith L. Lichtman
*National Partnership for
Women & Families*
William L. Taylor
Citizens' Commission on Civil Rights

SECRETARY

William D. Novelli
AARP

TREASURER

Gerald W. McEntee
AFSCME

HONORARY CHAIRPERSON

Benjamin L. Hooks

EXECUTIVE COMMITTEE

Barbara Aronson
*Lawyers' Committee For Civil
Rights Under Law*

Christine Chen
Organization of Chinese Americans

Robert W. Edgar
National Council of Churches

Sandra Feldman
*American Federation of Teachers,
AFL-CIO*

Kim Gandy
National Organization for Women

Ron Gettelfinger
*International Union, United Automobile
Workers of America*

Marcia Greenberger
National Women's Law Center

Andrew J. Imparato
*American Association of People with
Disabilities*

Cheryl Jacques
Human Rights Campaign

Jacqueline Johnson
National Congress of American Indians

Elaine R. Jones
*NAACP Legal Defense &
Educational Fund, Inc.*

Leon Lynch
United Steelworkers of America

Kay J. Maxwell
*League of Women Voters of
the United States*

Kweisi Mfume
NAACP

Marc H. Morial
National Urban League

Laura Murphy
American Civil Liberties Union

Ralph G. Nease
People For The American Way

David Saperstein
Union for Reform Judaism

Shanna L. Smith
National Fair Housing Alliance

Andrew L. Stern
Service Employees International Union

Reg Weaver
National Education Association

Richard Womack
AFL-CIO

Jacqueline E. Woods
*American Association of
University Women*

Patricia Wright
*Disability Rights Education and
Defense Fund, Inc.*

Raul Yzaguirre
National Council of La Raza

**COMPLIANCE ENFORCEMENT
COMMITTEE**

Karen K. Narasaki
*National Asian Pacific American
Legal Consortium*

EXECUTIVE DIRECTOR

Wade J. Henderson

matters. When Chief Justice Earl Warren wrote the unanimous Supreme Court decision in *Brown v. Board of Education* (1954), for example, defenders of segregation cried "judicial activism" across the South and across the country. The Supreme Court's ruling in *Loving v. Virginia* (1967), which invalidated a state anti-miscegenation law, resulted in similar attacks. Fortunately, our nation avoided taking any radical court-stripping measures following those decisions, or following other controversial rulings in cases involving busing, desegregation, or school prayer. We believe that any similar efforts should be rejected in this case as well – particularly given the fact that no federal court has yet to even rule on the constitutionality of the Defense of Marriage Act.

Because this latest attack on the right of individuals to access an independent judiciary is of such importance to the civil rights community, **LCCR intends to record how representatives vote on H.R. 3313 and include it in its voting records for the 108th Congress**, to be made available to its member organizations and the general public. If you have any questions, please feel free to contact Rob Randhava, LCCR policy analyst, at (202) 466-6058, or Nancy Zirkin, LCCR deputy director, at (202) 263-2880. Thank you for your consideration.

Sincerely,



Wade Henderson
Executive Director



Nancy Zirkin
Deputy Director